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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,612	03/08/2002	Chih-Ming Chen		8640

7590

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EXAMINER

BAHTA, ABRAHAM

ART UNIT

PAPER NUMBER

1775

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,612

Applicant(s)

CHEN, CHIH-MING

Examiner

Abraham Bahta

Art Unit

1775

eb2

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

In claim 1, line 2 after the term "upper" the word —cover—should be added.

Claim Rejections - 35 USC § 112

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the phrase "rubber member" lacks antecedent basis. There is no previous mention of a rubber member in claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fushiya et al (USP 5,206,967) in view of Armbruster (USP 5,289,605) and further in view of Mallory (USP 3,724,017).

Fushiya teaches a wax applicator comprising a housing with an upper, oval portion 1a. See Fig. 1 and col. 2, lines 2, lines 1-3. The housing has an opening in which a motor switch is located. See col. 2, lines 41-42. The upper portion of the housing may be mounted on a lower circular portion (seat). See col. 2, lines 1-3. An electric motor is provided in the housing. See col. 2, line 11. The lower portion of the

Art Unit: 1775

housing may be mounted on a base. See Fig. 1. The base may comprise a pad (16), a bearing (19), pad supporting members (7a). See col. 2, lines 57-66. The base may be circular and comprises two tubular supporting members. See Fig. 1. The motor has a drive shaft a crank member which consists of a balancer portion and an eccentric shaft portion. See col. 2, lines 48-53. A sponge (24) is affixed to the bottom of the base. See col. 3, lines 30-36 and Fig 1.

Fushiya does not require a battery for powering the motor; however, providing battery for powering a motor of a surface treating machine such as waxers, polishers, buffers and scrubbers is notoriously well known in the art as shown in USP 5,289,605 to Armbruster. See col. 8 lines 34-39.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a battery for powering the motor of Fushiya as taught by Armbruster so that the wax applicator may be easily portable.

As to the limitation such that a cover encloses the sponge as recited in claim 1, Mallory '017 teaches a cover secured in a position over a sponging surface in order to protect the sponge of a window-cleaning device. See col. 1, lines 52-56.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a cover to the sponge of Fusiya in order to protect the sponging surface as taught by Mallory.

Claim 3: The housing has an opening through which a power cord passes wherein the power cord is electrically connected both to the motor and to the motor

Art Unit: 1775

switch and a plug is connected to an outer end of the power cord. See col. 2, lines 41-47.

Claim 4: As discussed above Armbruster teaches a battery may be utilized to a surface-treating machine. Providing a U-shaped member to mount the batter would have been obvious to one skilled in the art, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

Claim 5: The shaft portion of the motor is received in a bearing (19). See col. 2, line 57.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abraham Bahta whose telephone number is (571) 272-1352. The examiner can normally be reached on Monday - Friday; 11:30 am - 8:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1775

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



A. Bahta
06/23/04


DEBORAH JONES
SUPERVISORY PATENT EXAMINER